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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CITIBANK

April 11, 1995

Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Rm. 814
Washington, D.C. 20554

Re: Market Entry and Regulation of Foreign-affiliated Entities -- IB Docket No. 95-22

Dear Chairman Hundt:

I am writing on behalf of Citicorp to provide the Commission with a user perspective on the important issues raised by the Notice of Proposed Rulemaking in the above-referenced proceeding.[1] As you may know, Citicorp operates a sophisticated communications and information processing network connecting 96 countries in support of its global business operations. Working with U.S. and foreign carriers, Citicorp is currently in the process of extending its network to such diverse places as Vietnam, the Czech Republic and the countries of the Commonwealth of Independent States, as well expanding the scope of the services provided by the network to its operations in more developed countries such as Taiwan, Singapore and Japan. Like other users of international telecommunications services, Citicorp believes that the public interest is best served by a regulatory environment that promotes the widespread availability of new, innovative and moderately priced telecommunications services from a multitude of service providers. Citicorp therefore urges the Commission, as it considers foreign carrier entry into the United States, to focus on the impact of its policies on users of international telecommunications services.

At the outset, Citicorp wishes to commend the Commission for proposing a flexible approach to foreign carrier market entry and for rejecting the "mirror image" reciprocity test proposed by American Telephone and Telegraph Company ("AT&T").[2] As explained by the Coalition of International Telecommunications Users (the "Coalition"), of which

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[1] See Market Entry and Regulation of Foreign-affiliated Entities, Notice of Proposed Rulemaking, IB Docket No. 95-22, FCC 95-53 (released Feb. 17, 1995) [hereinafter "Notice"].

[2] See Petition for Rulemaking of American Telegraph and Telegraph Co., RM-8355 (filed Sep. 22, 1993).

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Citicorp is an active member, the inflexible standard proposed by AT&T would only serve to limit market entry and would deprive users of the benefits of competition, such as expanded service offerings, reasonable prices and the introduction of new service providers.[3] Rather than promoting market access overseas, AT&T's proposal would preclude foreign carrier entry into the United States and, more likely than not, would invite retaliation against U.S. carriers and other U.S. service providers in foreign markets.[4] The flexible public interest standard proposed by the Notice, by contrast, will give foreign countries an incentive to open their markets, without provoking retaliation against U.S. carriers.

Citicorp also wishes to endorse the Commission's tentative decision to consider market access as but one element of a multifaceted public interest standard when evaluating foreign carrier applications for entry into the U.S. market. Under this approach, the Commission can and should consider other public interest factors as well. Indeed, as the Commission has acknowledged, there may well be "times when public interest factors other than comparable market access might be decisive on the issue of entry."[5]

Citicorp cannot overemphasize the need for such flexibility. Although Citicorp shares the Commission's desire to expand U.S. carrier access to foreign telecommunications markets, the interests of users should not be sacrificed. As the Commission has found, "allowing foreign carrier entry into the U.S. international services market will further the public interest by providing additional competition that will benefit consumers."[6] The converse is equally true; denying foreign carriers access to the U.S. market will harm users by decreasing competition and crippling global networks originating with foreign carriers in the United States. Even worse, denying foreign carriers access to the U.S. market will invite retaliation against U.S. carriers and value-added networks that may provide the only links between U.S. businesses and their foreign subsidiaries. The Commission should therefore not attach disproportionate weight to the market access element of Section 214's public interest standard.

In this regard, the Commission's analysis of foreign carrier entry should also expressly take into account the extent to which the needs of users are being satisfied by the country of origin of a foreign carrier. The Commission has already recognized that "[e]ven if

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[3] See Reply Comments of Coalition of International Telecommunications Users, RM-8355 (filed Nov. 16, 1993).

[4] See Notice at ¶ 49.

[5] Id. at ¶ 41.

[6] Id. at ¶ 1.

a foreign carrier cannot demonstrate that effective market access exists for U.S. carriers in its primary markets, it may still show that other public interest factors warrant its entry into the U.S. market."[7] Citicorp submits that one such other public interest factor should be the extent to which foreign countries satisfy the needs of international telecommunications users.

More specifically, the Commission should consider whether and to what extent other countries permit such activities as: the interconnection of international private lines to the public switched network and to private networks; the installation, operation and interconnection of private earth station networks; and the availability of international Freephone Services from and in the foreign carrier's primary market. By expressly considering the extent to which other countries satisfy the communications needs of users, the Commission will promote the widespread availability of the telecommunications services that users need to support their international business operations. More important, the Commission will send a clear signal to foreign markets that the United States is not turning its back to foreign carriers at a time when many foreign countries are taking dramatic steps to liberalize their markets.[8]

Citicorp also wishes to endorse the Commission's decision to limit the applicability of this rulemaking to "those potential entrants that are 'affiliated' with a 'foreign carrier.'"[9] Citicorp agrees that, by so limiting its proposal, the Commission will promote the formation of joint ventures and nonexclusive co-marketing arrangements. Such arrangements bring significant benefits to international telecommunications users through "one-stop shopping," seamless interconnection, superior quality service and the like. Such joint ventures, however, are not totally without risk. In addition to producing significant benefits, these joint ventures provide U.S. carriers with an incentive to discriminate in favor of their foreign partners. The Commission should take the opportunity presented by this proceeding to prevent such discrimination by prohibiting U.S. carriers from interfering with the rights of users to secure telecommunications services from the carrier of their choice in foreign markets.

Citicorp similarly supports the Notice's tentative decision with respect to foreign carrier entry "by resale of private lines interconnected to the public switched network."[10] As the Notice correctly observes, the Commission's International Resale Policy decision is "sufficient to ensure that a foreign monopoly carrier would be unable to exploit its market power

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[7] Id. at ¶ 49.

[8] See id.

[9] Id. at ¶ 52.

[10] Id. at ¶ 77.

with respect to its provision of interconnected private line services."[11] In the absence of any new evidence that would warrant revisiting this issue or imposing new restraints on the ability of end users to utilize international private lines in the conduct of their international business operations, Citicorp believes that the Commission should not increase its current requirements. Any new restrictions would place existing networks and the business operations they support at risk, and would subject end users to needless uncertainties and delays.

Similarly, Citicorp agrees with the Commission that there is no justification for extending this rulemaking to enhanced service providers and private carriers, as AT&T has requested.[12] Applying a Section 214 public interest analysis to these currently unregulated service providers cannot be squared with the Commission's prior findings regarding their status vis-a-vis Title II of the Act. It would also threaten the marketplace benefits that have flowed to consumers from the Commission's deregulatory and pro-competitive policies. Given the competitive nature of the marketplace for enhanced services and private carriers, the Commission should leave these service providers outside the scope of this proceeding.

In closing, Citicorp again wishes to applaud the flexible public interest standard proposed by the Commission's Notice. Citicorp also renews its request that the Commission be mindful of the interests of users as it considers the issues presented by foreign carrier entry into the U.S. telecommunications marketplace.

Respectfully submitted,

P. Michael Nugent

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cc: William F. Caton

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[11] Id.

[12] See id. at ¶ 80.